

REMARKS

1. Formal Matters

a. Status of the Claims

Claims 25-33 are pending in the instant application. Claims 26, 29, and 33 are withdrawn; claim 32 is canceled without prejudice to pursuing the canceled subject matter in a continuing application; and claims 27, 30, and 31 are amended. Upon entry of these amendments, claims 25, 27, 28, 30, and 31 are pending and under active consideration. Applicant respectfully requests entry of the amendments and remarks made herein into the file history of the instant application.

b. Amendments to the Claims

Claim 27 is amended to recite, "The nucleic acid of claim 25, wherein the at least Y nucleotides are of the sequence of SEQ ID NO: 7002375."

Claim 30 is amended to recite, "The nucleic acid of claim 28, wherein the Y consecutive nucleotides are of the sequence of SEQ ID NO: 7002375."

Claim 31 is amended to recite, "A vector comprising the nucleic acid of any one of claims 25, 27, 28, or 30," support for which can be found at paragraph 0037 of the specification as originally filed. Paragraph 0037 recites in part, "... 'Isolated Nucleic Acid', [is] defined as a nucleic acid that is free of the genome of the organism from which the nucleic acid is derived, and include[s], for example, a recombinant nucleic acid which is incorporated into a vector..."

c. Sequence Listing

On pages 3-4 of the Office Action, the Examiner alleges that the Office is unable to process the substitute Sequence Listing filed on March 21, 2007. The Examiner requests that Applicant resubmit the sequence listing in corrected form along with the necessary papers and statements. The Sequence Listing Validation Report accompanying the Office Action alleges that the Sequence Listing entry for SEQ ID NO: 10068191 is missing mandatory information for numeric identifiers <211>, <212>, <213>, and <400>. Applicant respectfully submits that SEQ ID NO: 10068191 in the Sequence Listing as filed on March 21, 2007, which was uploaded via EFS-Web as 63 separate .txt files, contained the mandatory information. Accordingly, Applicant proceeded to contact Anne-Marie Corrigan of the Office's Scientific and Technological Information Center to discuss the Sequence Listing.

After reviewing the file of the instant application, Ms. Corrigan notified Applicant that the flawed Sequence Listing was due to an error by the Office and not Applicant. Specifically, there was a Computer Readable Form (CRF) error introduced during the loading/processing of the Sequence Listing by SCORE. Ms. Corrigan informed Applicant that SCORE will re-load the 63 files of the Sequence Listing, which

will subsequently appear for STIC annotation. Accordingly, Ms. Corrigan removed the "CRFD" from PALM, and the flawed Sequence Listing image from eDAN. Ms. Corrigan informed Applicant that the Examiner would be informed by E-mail correspondence about the corrected Sequence Listing.

In view of the foregoing, Applicant submits that the flawed Sequence Listing will be corrected by the Office and no action is required on Applicant's part. Applicant herewith submits the Notice to Comply simply for informative purposes.

2. Election/Restriction

On pages 4 and 5 of the Office Action, the Examiner requires restriction to one of the following inventions under 35 U.S.C. § 1.21:

I. Claims 25-32, drawn to an isolated nucleic acid comprising at least 16 nucleotides of SEQ ID NO: 10068310.

II. Claim 33, drawn to a method for detecting any one of the nucleic acids recited in claim 27.

Applicant elects without traverse Group I, which is now considered claims 25, 27, 28, 30, and 31, drawn to an isolated nucleic acid and a vector comprising the nucleic acid.

3. Restriction to a single nucleotide sequence

On pages 5-7 of the Office Action, the Examiner requires further election of a single polynucleotide sequence from claims 26, 27, 29, or 30, along with one corresponding target gene. Applicant elects without traverse SEQ ID NO: 7002375, which is related to claims 27, 30, and 31, and the corresponding target gene ACTN4, which has GenBank accession no. NM_004924. Should the generic claim be allowed, Applicant respectfully requests withdrawal of the restriction requirement.

4. Conclusion

Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC

Dated: July 2, 2007

On behalf of: Teddy C. Scott, Jr., Ph.D.
Registration No.: 53,573

By: /Ron Galant, Ph.D./
Ron Galant, Ph.D.
Registration No. 60,558
Customer No. 37808

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
180 N. Stetson Ave., Suite 4525
Chicago, IL 60601
312.819.1900 (main)
312.602.3955 (E-fax)
312.873.3613 (direct)